

# One Hundred Seventh Congress of the United States of America

## AT THE FIRST SESSION

*Begun and held at the City of Washington on Wednesday,  
the third day of January, two thousand and one*

### Concurrent Resolution

*Resolved by the House of Representatives (the Senate concurring),* That in the enrollment of the bill (S. 1438) to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, the Secretary of the Senate shall make the following correction:

Strike section 1212 and insert the following:

#### **SEC. 1212. EXTENSION OF AUTHORITY FOR INTERNATIONAL COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS.**

(a) **ELIGIBILITY OF FRIENDLY FOREIGN COUNTRIES.**—Section 2350a of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “(1)” after “(a) AUTHORITY TO ENGAGE IN COOPERATIVE R&D PROJECTS.—”;

(B) by striking “major allies of the United States or NATO organizations” and inserting “countries or organizations referred to in paragraph (2)”; and

(C) by adding at the end the following new paragraph:

“(2) The countries and organizations with which the Secretary may enter into a memorandum of agreement (or other formal agreement) under paragraph (1) are as follows:

“(A) The North Atlantic Treaty Organization.

“(B) A NATO organization.

“(C) A member nation of the North Atlantic Treaty Organization.

“(D) A major non-NATO ally.

“(E) Any other friendly foreign country.”;

(2) in subsection (b)(1)—

(A) by striking “its major non-NATO allies” and inserting “a country or organization referred to in subsection (a)(2)”; and

(B) by striking “(NATO)”;

(3) in subsection (d)—

(A) in paragraph (1), by striking “the major allies of the United States” and inserting “countries and organizations referred to in subsection (a)(2)”; and

(B) in paragraph (2)—

(i) by striking “major ally of the United States” and inserting “country or organization referred to in subsection (a)(2)”; and

(ii) by striking “that ally’s contribution” and inserting “the contribution of that country or organization”;

(4) in subsection (e)(2)—

(A) in subparagraph (A), by striking “one or more of the major allies of the United States” and inserting “any country or organization referred to in subsection (a)(2)”;

(B) in subparagraph (B), by striking “major allies of the United States or NATO organizations” and inserting “countries and organizations referred to in subsection (a)(2)”;

(C) in subparagraph (C), by striking “major allies of the United States” and inserting “countries and organizations referred to in subsection (a)(2)”;

(D) in subparagraph (D), by striking “major allies of the United States” and inserting “countries and organizations referred to in subsection (a)(2)”;

(5) paragraphs (1)(A) and (4)(A) of subsection (g), by striking “major allies of the United States and other friendly foreign countries” and inserting “countries referred to in subsection (a)(2)”;

(6) in subsection (h), by striking “major allies of the United States” and inserting “member nations of the North Atlantic Treaty Organization, major non-NATO allies, and other friendly foreign countries”; and

(7) in subsection (i)—

(A) in paragraph (1), by striking “major allies of the United States or NATO organizations” and inserting “countries and organizations referred to in subsection (a)(2)”;

(B) by striking paragraph (2); and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) NOTICE-AND-WAIT REQUIREMENT.—Subsection (a) of such section is further amended by adding at the end the following new paragraph:

“(3) If such a memorandum of understanding (or other formal agreement) is with a country referred to in subparagraph (E) of paragraph (2), such memorandum (or agreement) may go into effect only after the Secretary submits to the Committees on Armed Services and on Foreign Relations of the Senate and to the Committees on Armed Services and on International Relations of the House of Representatives a report with respect to the proposed memorandum (or agreement) and a period of 30 days has passed after the report has been submitted.”.

(c) DELEGATION OF AUTHORITY TO DETERMINE ELIGIBILITY OF PROJECTS.—Subsection (b)(2) of such section is amended by striking “to the Deputy Secretary of Defense” and all that follows through the period at the end and inserting “to the Deputy Secretary of Defense and to one other official of the Department of Defense.”.

(d) REVISION OF REQUIREMENT FOR ANNUAL REPORT ON ELIGIBLE COUNTRIES.—Subsection (f)(2) of such section is amended to read as follows:

“(2) Not later than January 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services and on Foreign Relations of the Senate and to the Committees on Armed Services and on International Relations of the House of Representatives a report specifying—

“(A) the countries that are eligible to participate in a cooperative project agreement under this section; and

“(B) the criteria used to determine the eligibility of such countries.”.

(e) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

**“§ 2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries”.**

(2) The item relating to such section in the table of sections at the beginning of subchapter II of chapter 138 of title 10, United States Code, is amended to read as follows:

“2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries.”.

**SEC. 1213. COOPERATIVE AGREEMENTS WITH FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS FOR RECIPROCAL USE OF TEST FACILITIES.**

(a) AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2350l. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations**

“(a) AUTHORITY.—The Secretary of Defense, with the concurrence of the Secretary of State, may enter into a memorandum of understanding (or other formal agreement) with a foreign country or international organization to provide for the testing, on a reciprocal basis, of defense equipment (1) by the United States using test facilities of that country or organization, and (2) by that country or organization using test facilities of the United States.

“(b) PAYMENT OF COSTS.—A memorandum or other agreement under subsection (a) shall provide that, when a party to the agreement uses a test facility of another party to the agreement, the party using the test facility is charged by the party providing the test facility in accordance with the following principles:

“(1) The user party shall be charged the amount equal to the direct costs incurred by the provider party in furnishing test and evaluation services by the providing party’s officers, employees, or governmental agencies.

“(2) The user party may also be charged indirect costs relating to the use of the test facility, but only to the extent specified in the memorandum or other agreement.

“(c) DETERMINATION OF INDIRECT COSTS; DELEGATION OF AUTHORITY.—(1) The Secretary of Defense shall determine the appropriateness of the amount of indirect costs charged by the United States pursuant to subsection (b)(2).

(2) The Secretary may delegate the authority under paragraph (1) only to the Deputy Secretary of Defense and to one other official of the Department of Defense.

“(d) RETENTION OF FUNDS COLLECTED BY THE UNITED STATES.—Amounts collected by the United States from a party using a test facility of the United States pursuant to a memorandum or

other agreement under this section shall be credited to the appropriation accounts from which the costs incurred by the United States in providing such test facility were paid.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘direct cost’, with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

“(A) means any item of cost that is easily and readily identified to a specific unit of work or output within the test facility where the use occurred, that would not have been incurred if such use had not occurred; and

“(B) may include costs of labor, materials, facilities, utilities, equipment, supplies, and any other resources of the test facility that are consumed or damaged in connection with—

“(i) the use; or

“(ii) the maintenance of the test facility for purposes of the use.

“(2) The term ‘indirect cost’, with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

“(A) means any item of cost that is not easily and readily identified to a specific unit of work or output within the test facility where the use occurred; and

“(B) may include general and administrative expenses for such activities as supporting base operations, manufacturing, supervision, procurement of office supplies, and utilities that are accumulated costs allocated among several users.

“(3) The term ‘test facility’ means a range or other facility at which testing of defense equipment may be carried out.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

“2350l. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations.”.

**SEC. 1214. SENSE OF CONGRESS ON ALLIED DEFENSE BURDENSARING.**

It is the sense of Congress that—

(1) the efforts of the President to increase defense burdensharing by allied and friendly nations deserve strong support; and

(2) host nation support agreements with those nations in which United States military personnel are assigned to permanent duty ashore should be negotiated consistent with section 1221(a)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 1541(a)(1)), which sets forth a goal of obtaining from any such host nation financial contributions that amount to 75 percent of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation.

**Subtitle C—Reports**

**SEC. 1221. REPORT ON SIGNIFICANT SALES AND TRANSFERS OF MILITARY HARDWARE, EXPERTISE, AND TECHNOLOGY TO THE PEOPLE'S REPUBLIC OF CHINA.**

Section 1202 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 781; 10 U.S.C. 113 note) is amended by adding at the end the following new subsection:

“(d) REPORT ON SIGNIFICANT SALES AND TRANSFERS TO CHINA.—

(1) The report to be submitted under this section not later than March 1, 2002, shall include in a separate section a report describing any significant sale or transfer of military hardware, expertise, and technology to the People's Republic of China. The report shall set forth the history of such sales and transfers since 1995, forecast possible future sales and transfers, and address the implications of those sales and transfers for the security of the United States and its friends and allies in Asia.

“(2) The report shall include analysis and forecasts of the following matters related to military cooperation between selling states and the People's Republic of China:

“(A) The extent in each selling state of government knowledge, cooperation, or condoning of sales or transfers of military hardware, expertise, or technology to the People's Republic of China.

“(B) An itemization of significant sales and transfers of military hardware, expertise, or technology from each selling state to the People's Republic of China that have taken place since 1995, with a particular focus on command, control, communications, and intelligence systems.

“(C) Significant assistance by any selling state to key research and development programs of China, including programs for development of weapons of mass destruction and delivery vehicles for such weapons, programs for development of advanced conventional weapons, and programs for development of unconventional weapons.

“(D) The extent to which arms sales by any selling state to the People's Republic of China are a source of funds for military research and development or procurement programs in the selling state.

“(3) The report under paragraph (1) shall include, with respect to each area of analysis and forecasts specified in paragraph (2)—

“(A) an assessment of the military effects of such sales or transfers to entities in the People's Republic of China;

“(B) an assessment of the ability of the People's Liberation Army to assimilate such sales or transfers, mass produce new equipment, or develop doctrine for use; and

“(C) the potential threat of developments related to such effects on the security interests of the United States and its friends and allies in Asia.”.

**SEC. 1222. REPEAL OF REQUIREMENT FOR REPORTING TO CONGRESS ON MILITARY DEPLOYMENTS TO HAITI.**

Section 1232(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 788; 50 U.S.C. 1541 note) is repealed.

**SEC. 1223. REPORT BY COMPTROLLER GENERAL ON PROVISION OF  
DEFENSE ARTICLES, SERVICES, AND MILITARY EDU-  
CATION AND TRAINING TO FOREIGN COUNTRIES AND  
INTERNATIONAL ORGANIZATIONS.**

(a) **STUDY.**—The Comptroller General shall conduct a study of the following:

(1) The benefits derived by each foreign country or international organization from the receipt of defense articles, defense services, or military education and training provided after December 31, 1989, pursuant to the drawdown of such articles, services, or education and training from the stocks of the Department of Defense under section 506, 516, or 552 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321j, or 2348a) or any other provision of law.

(2) Any benefits derived by the United States from the provision of defense articles, defense services, and military education and training described in paragraph (1).

(3) The effect on the readiness of the Armed Forces as a result of the provision by the United States of defense articles, defense services, and military education and training described in paragraph (1).

(4) The cost to the Department of Defense with respect to the provision of defense articles, defense services, and military education and training described in paragraph (1).

(b) **REPORTS.**—(1) Not later than April 15, 2002, the Comptroller General shall submit to Congress an interim report containing the results to that date of the study conducted under subsection (a).

(2) Not later than August 1, 2002, the Comptroller General shall submit to Congress a final report containing the results of the study conducted under subsection (a).

Attest:

*Clerk of the House of Representatives.*

Attest:

*Secretary of the Senate.*